

ESTTA Tracking number: **ESTTA729727**

Filing date: **02/26/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Red Bull GmbH		
Entity	Limited liability company	Citizenship	Austria
Address	Am Brunnen 1 Fuschl am See, 5330 AUSTRIA		

Attorney information	Martin R. Greenstein TechMark a Law Corporation 4820 Harwood Road, 2nd Floor San Jose, CA 95124 UNITED STATES MRG@TechMark.com, NDG@TechMark.com, LZH@TechMar.com, AMR@TechMark.com, DMP@TechMark.com Phone:408-266-4700
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### Applicant Information

Application No	86433841	Publication date	02/02/2016
Opposition Filing Date	02/26/2016	Opposition Period Ends	03/03/2016
Applicant	Okonko International Company 9586 North Sharon Ave. Fresno, CA 93720 UNITED STATES		

### Goods/Services Affected by Opposition

Class 032. First Use: 2014/01/29 First Use In Commerce: 2014/01/29 All goods and services in the class are opposed, namely: Energy drinks
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
No use of mark in commerce before application was filed	Trademark Act section 1(a)
Dilution by blurring	Trademark Act section 43(c)
Dilution by tarnishment	Trademark Act section 43(c)
Other	False Declaration. Grand Canyon West Ranch LLC v. Hualapai Tribe, 88 USPQ2d 1501, 1509 (TTAB 2008); Standard Knitting Ltd. v. Toyota Jidosha Kabushiki Kaisha, 77 USPQ2d 1917 (TTAB 2006)

### Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	RED BULL, RED BULL & Two Bulls Logo, Two Bulls Logo, (Single) Bull Logo, BULL, and other marks for or incorporating the word BULL, and/or the design of a bull or bovine animal		
Goods/Services	Beverages, energy drinks, sports drinks, soft drinks, and various other products and services related or complementary thereto		

Attachments	VIS BUFFALO ENERGY DRINK-86433841-Notice of Oppo.pdf(165291 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Leah Z. Halpert/
Name	Leah Z. Halpert
Date	02/26/2016

**CERTIFICATE OF ELECTRONIC FILING AND  
STANDBY AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT**

I hereby certify that this Notice of Opposition is being filed with the TTAB via ESTTA on the date set forth below, and the \$300 per class statutory filing fee paid. Please charge any deficiency or any additional fees in connection with this Notice of Opposition to TechMark's PTO Deposit Account No. 20-0330.

Date: February 26, 2016

/Leah Z. Halpert/

Leah Z. Halpert

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN THE MATTER OF Application Serial No. 86/433,841 for the trademark VIS BUFFALO ENERGY DRINK (Class 32), filed October 24, 2014, and published in the Official Gazette of February 2, 2016.

**RED BULL GMBH,**

**Opposer,**

**v.**

**OKONKO INTERNATIONAL COMPANY**

**Applicant.**

**Opposition No.:**

**Mark: VIS BUFFALO ENERGY DRINK**

**Application No.: 86/433,841**

**NOTICE OF OPPOSITION**

RED BULL GMBH, a limited liability company organized and existing under the laws of Austria, with its principal place of business at Am Brunnen 1, 5330 Fuschl am See, AUSTRIA, (hereafter "Red Bull" or "Opposer") believes it is or will be damaged by registration on the Principal Register of the mark VIS BUFFALO ENERGY DRINK shown in Appln. Ser. No. 86/433,841 (hereinafter the "**VIS BUFFALO Mark**"), and hereby opposes the same.

As grounds of opposition it is alleged that:

1. Opposer is now and has for many years been engaged in the development, marketing, advertising, distribution and sale of various products and services including, among others, beverages, energy drinks, sports drinks, soft drinks, and various other products and services related or complementary thereto.

35. The use of Applicant's VIS BUFFALO Mark is likely to cause dilution by tarnishment as the association arising from the substantially similar nature of Applicant's VIS BUFFALO Mark and Opposer's famous RED BULL and Bull Logo Marks will harm the reputation of Opposer's famous RED BULL and Bull Logo Marks.

36. Therefore, based on ¶¶ 30-35 above, Applicant's VIS BUFFALO Mark is likely to cause dilution by blurring and dilution by tarnishment of Opposer's famous RED BULL and Bull Logo Marks in violation of Lanham Act § 43(c), and is not entitled to registration.

Wherefore, Opposer requests that registration of the mark sought to be registered herein, VIS BUFFALO ENERGY DRINK of Appln. No. 86/433,841, be denied and that this opposition be sustained.

RED BULL GMBH  
By: /Martin R. Greenstein/  
Martin R. Greenstein  
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Attorneys for Opposer Red Bull GmbH

Dated: February 26, 2016

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** is being served on February 26, 2016, by deposit of same in the United States Mail, first class postage prepaid, in an envelope addressed to Applicant's Correspondent of Record at the address given on the TSDR website, with a courtesy copy via email to [admin@thetrademarkcompany.com](mailto:admin@thetrademarkcompany.com):

Matthew H. Swyers  
The Trademark Company  
344 Maple Ave West, PMB 151  
Vienna, VA 22180

/Leah Z. Halpert/  
Leah Z. Halpert